

**TOWN OF ELSMERE
BOARD OF ADJUSTMENTS
MEETING MINUTES
August 23, 2011
6:30 P.M.**

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

ROLL CALL:

Board Member Patricia Boyd – Present
Board Member James Personti – Present
Board Member John Smith – Present
Board Member John Acton – Present
Chairman Paul Chalfant – Absent

OLD BUSINESS:

None

NEW BUSINESS:

Review Petition 11-11 Tax Parcel Number 1900-400-029 also known as 1301 Kirkwood Hwy

Secretary Craig Hanna submitted Exhibit 6A-D which were letters from Luis Grijalba and John Behrens addressing the Board of Adjustment and were not included in the original packet for petition 11-11.

Mr. John Behrens introduced himself as the owner of the property at 1301 Kirkwood Hwy. He went on to state the reason why he was petitioning the Board and welcomed any questions the Board may have. He also said he had secured a lease with the neighbor next door for additional parking spaces for any overflow, should they need them.

Board Member Acton asked if he had signage directing people to the auxiliary parking next door.

Mr. Behrens stated that they have a sign at the front of the property that says “Parking in Rear.”

Board Member Smith asked if the contract they have with the neighbor is a month to month contract.

Mr. Behrens said it is.

Board Member Smith then asked who was to monitor that.

Mr. Behrens said he would provide a statement every month if need be. He also stated he could provide a stoppage certificate from the landlord.

Board Member Boyd asked what's going to stop people from parking along Poplar St. in front of the store to just stop in the store for a minute or two. She went on to state her concern about the neighbors that live there losing their on-street parking.

Mr. Behrens said he would be happy to provide signage at the front of the property stating that there's parking next door. He went on to say that, before he owned the property, parking was permitted on Poplar Street. He said that one of the things creating the current parking issue is that after the improvement to the intersection, the parking along Poplar St. was taken away.

Board Member Personti asked what amount of customers they project to have at the business.

Mr. Luis Grijalba, the business owner, stated they have 2 other stores, one of which is located in Georgetown where they expect maybe 20 customers a day.

Board Member Personti asked if they cater to businesses more than the general public as customers.

Mr. Grijalba said they do, and that they are trying as much as possible to receive payments over the phone.

Board Member Boyd asked how much of their clientele do come in to pay their bills every month.

Mr. Christian Grijalba, manager of Genesis Services, stated about half. He went on to say that 3 people in the store at one time is the norm, and wouldn't expect more than 5.

Board Member Boyd asked what the hours of operation are.

Christian Grijalba stated 10am-7pm Monday thru Saturday.

Board Member Acton asked isn't the goal of any business to increase their business.

Luis Grijalba said that if they increased their number of customers, they would just open another store at another location.

Board Member Smith asked if Mr. Behrens was currently renting out the apartment on the 2nd floor.

Mr. Behrens said he is still doing so to the same tenant for the past 11 years, and he uses one spot for parking. He went on to say that he could direct the tenant, as well as the business owner and manager, to park at the property next door.

Luis Grijalba said they would not receive any deliveries at this location because they receive everything at their main office in Milford.

Board Member Smith asked if there was a trash dumpster in back of the property.

Mr. Behrens stated that they don't generate a large enough amount of trash to necessitate a dumpster and that one or two of the big trashcans they have would suffice. He went on to say that he has no objection to limiting the retail use at the property to the cell phone store.

Mrs. Pam Vaselotti introduced herself as a resident at 3 Poplar Ave. She stated that one of the concerns of the Planning Commission was if the number of parking spaces the business next door was leasing to Mr. Behrens would then put them under their required amount of spaces.

Mr. Wayne Vaselotti introduced himself as Pam Vaselotti's husband, and as a resident at 3 Poplar Ave. He stated that he and his wife's concern has always been the leap between professional businesses, at 1301 Kirkwood Hwy, to retail. He said that the scope of retail under the Town Code is quite vast in what it allows, and that many of which would be undesirable at that location.

Mrs. Vaselotti stated that people don't care about the yellow curb along the highway. She went on to say that the businesses that have been in 1301 Kirkwood Hwy have caused parking problems for them, and now that there's a traffic-light there, it will be worse.

Mr. Behrens stated that the previous office tenant that was in the building had 18 employees and he was not the owner at that time.

Mrs. Vaselotti said Mr. Behrens was, in fact, the property owner and she had contacted him about the parking issues at that time. She went on to say that he informed her he would contact the tenants and try and resolve the problems.

Mr. Behrens stated he was not the owner of the property at that time and that he was only a real-estate broker that sold the property. He went on to say that he did ask the tenants to park in the parking lot for Mrs. Vaselotti. He stated now that he owns the property, he has a little more power over the parking at the property than he did before. He stated he has the opportunity to get an established business in the property and he believes they will do well there. He went on to say that the previous businesses he's had there did not do so well and that is one of his hardships.

Board Member Boyd asked if they have a family member that manages each location.

Luis Grijalba stated he has his son, Christian Grijalba, managing the locations.

Board Member Boyd asked if he would be managing the 1301 Kirkwood Hwy location.

Christian Grijalba stated he would be.

Mr. Vasselotti expressed his biggest concern is the scope of the term "Retail" in the Town of Elsmere Code stating that Mr. Behrens could put a vast array of businesses at that location if the petition is approved.

Mr. Behrens stated that's the reason he submitted in writing that he would be fine with limiting it to a cell phone store. He went on to say that if the business were to change to something else, he understands that he would have to go in front of the Planning Commission and Board of Adjustment again for another variance.

Board Member Boyd asked if there were any concerns from the Town's point of view.

Code Officer Swift stated there were no concern besides the fact that retail is not one of the permitted uses at that location as the Code stands.

Mr. Behrens said that when the property was a salon, the customers were there for a couple of hours sometimes, which is pretty time-consuming of the parking spaces.

Mrs. Vasselotti asked Luis Grijalba if all he was going to sell is cell phones.

Christian Grijalba said cell phones, cell phones accessories, batteries, chargers, etc. He went on to say that everything in the store is cell phone related.

Councilwoman Personti said she shares the residents' concern especially with a retail use being at that location. She went on to say that there's an apartment on the 2nd floor of the building which requires parking space. She also stated that utilizing the parking spaces next door they would then be limiting their use.

Town Manager John Giles stated that the location at 1301 Kirkwood Hwy was not permitted to have any establishment in it in the beginning. He said the owner had to get a variance in order to have a business there, and the variance had certain restrictions on it. He went on to say that now the owner is back, saying he changes his mind, and now wants to change what was allowed in there from the first variance. Mr. Giles said he doesn't believe variances should be a rolling thing, and that whenever something comes up, you run and try and get a variance to change it. He went on to say he does not want the Board to lose sight of the school children that walk up and down Poplar Ave. every day to and from school. He said it's one of the most congested intersections that the Town has and is the most congested involving school children. He also stated that the other cell phone store located within the town is a traffic nightmare. He said that the argument for the use of the property was made and was granted, and shouldn't be changed every time someone comes along with a new business.

Mr. Behrens asked if the other cell phone store has any off street parking.

Mr. Giles said they have 2 along side of the building on the Birch Ave. side on the property.

Mr. Behrens asked, in regards to the school children, if the Town thought that the amount of crossing guards they have there is inadequate to get the children safely back and forth through the intersection.

Mr. Giles said he thinks it's adequate to get the kids across the highway, but they're not there to watch the children crossing in front of the parking lot behind the store while there getting the kids through the intersection.

Christian Grijalba said that the customers would be in and out of their store in 15 minutes as opposed to the hour or 2 they would spend in the previous business there which was a hair salon.

Board Member Boyd said Mr. Grijalba is assuming that the customers are going in the store knowing exactly what they want to buy. She said that some people are going to shop around in the store and spend 30 to 45 minutes in the store and be parked outside.

Mr. Giles said that if there are customers coming and going every 15 or 20 minutes, that would mean a lot more traffic than if customers were staying for an hour or more.

Board Member Boyd asked how a hair salon was able to exist at the location if it was only for office use.

Mr. Behrens said they came to Town Hall, applied for the business license, signed permits, and opened.

Board Member Boyd said it was an unauthorized use of the property in the first place, so everything they're basing themselves on is irrelevant.

Board Member Acton said they possibly looked at the salon as "professional services" and figured that was allowed under the definition for office use.

Christian Grijalba said he believes that an Insurance Agency, which is allowed at the property, would generate a lot more traffic than his cell phone store.

Board Member Boyd argued that that may not be the case.

ACTION: A motion was made by Board Member Smith to deny Petition 11-11 to allow a retail or mercantile business at the property at 1301 Kirkwood Hwy. Board Member Boyd seconded the motion.

VOTE: 3-1 With 1 Absent Motion Carried

APPROVAL OF MINUTES:Approval of the Minutes from the June 28, 2011 Board of Adjustment Meeting

ACTION: A motion was made by Board Member Smith to approve the Minutes from the June 28, 2011 Board of Adjustment Meeting as transcribed. Board Member Boyd seconded the motion.

VOTE: All in favor 4-0 with 1 Absent Motion Carried

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS: None

PUBLIC COMMENT: None

ADJOURNMENT:

ACTION: A motion was made by Board Member Boyd to adjourn. The motion was seconded by Board Member Smith.

VOTE: All in favor Vote: 4-0 with 1 Absent Motion Carried

At this time the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the August 23, 2011 Board of Adjustment Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

PAUL CHALFANT, CHAIRMAN

JAMES PERSONTI, SECRETARY